

**** E-filed June 15, 2010 ****

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Attorneys for Plaintiff,
PHUONG QUANG HO

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

PHUONG QUANG HO,

Plaintiff,

vs.

CITY OF SAN JOSE, et al.,

Defendants.

CASE NO.: CV10-01825 HRL

**STIPULATION EXTENDING TIME
TO RESPOND TO COMPLAINT AND
CHANGING DATE OF THE INITIAL
CASE MANAGEMENT CONFERENCE
AND RELATED DATES; ~~PROPOSED~~
ORDER**

IT IS STIPULATED BETWEEN THE PARTIES THAT:

Pursuant to Northern District Local Rule 6-1(b) and 6-2, the parties agree that Defendants, CITY OF SAN JOSE, CHIEF ROB DAVIS, SERGEANT J. MARTIN, OFFICER KENNETH SIEGAL, OFFICER STEVEN PAYNE, JR., OFFICER GABRIEL REYES, and OFFICER JEROME SMITH, shall have until August 19, 2010, to file a responsive pleading.

1 The requested extension will effect the current dates for filing the Joint Case Management
2 Conference Statement, July 6, 2010 and the Initial Case Management Conference, July 13,
3 2010. The parties stipulate to reset the date for the filing of the Joint Case Management
4 Conference Statement to August 24, 2010 and the Initial Case Management Conference to
5 August 31, 2010. The parties also stipulate and ask that the date of June 22, 2010 for the
6 filing of the ADR Certification and the filing of either the Stipulation to ADR Process or Notice
7 of Need for ADR Phone Conference be extended to August 19, 2010.

8 The reasons for this Stipulation and requested Order are as follows:

9 This case involves Plaintiff Ho's allegations of excessive force and related
10 constitutional and state claims against Defendants arising from an incident on September 3,
11 2009. The incident was partially videotaped and resulted in much publicity. A criminal
12 investigation into the incident was conducted and the Santa Clara County District Attorney's
13 Office issued a report on March 3, 2010 regarding the incident. No criminal prosecutions of
14 the individual officers took place. The same officers are now Defendants in this civil case.

15 An Internal Affairs investigation by the San Jose Police Department is currently taking
16 place regarding the actions of the involved officers with no known date for conclusion. In
17 both the criminal investigation and the Internal Affairs investigation Defendant Officers
18 Jerome Smith and Gabriel Reyes are represented by Attorney William Rapoport, Defendant
19 Officer Steven Payne, Jr., is represented by Attorney Craig Brown and Defendant Officer
20 Kenneth Siegel is represented by Attorney Terry Bowman.

21 The complicated issue of who will be representing these four individual officers in this
22 federal civil case has yet to be resolved. The three aforementioned attorneys who have been
23 representing the four individual Defendant Officers believe the City of San Jose should retain
24 them to represent the officers in this civil case instead of the City Attorney's Office due to the
25 existence of alleged conflicts. Numerous discussions have already taken place between the
26 City and the three attorneys and further discussions are scheduled and will continue. This
27 issue must be worked out before the case can continue. The involved attorneys believe the
28 requested change of dates will provide adequate time for this decision to be reached.

After explaining this situation to Plaintiff Attorneys Duyen Nguyen and Glenn Miller during a meet and confer session regarding initial disclosures, etc., at the City Attorney's Office on June 9, 2010, Plaintiff Attorneys graciously agreed to the request by the City and the three attorneys representing the four individual officers in the related matters detailed above, that this Stipulation be entered into and filed with the Court seeking the requested change in the dates as follows:

	<u>Current Date:</u>	<u>Requested Date:</u>
Response to Complaint:	June 17, 2010 (by Stipulation of 5/13/10)	August 19, 2010
Joint Case Management Conference Statement:	July 6, 2010	August 24, 2010
Initial Case Management Conference:	July 13, 2010	August 31, 2010
File ADR Certification and Stipulation to Either ADR Process or Notice of Need for ADR Phone Conference:	June 22, 2010	August 19, 2010

These changes will essentially delay the start of the case by approximately two months and will have no other effect except to the dates mentioned above.

DATED: June 15, 2010

RICHARD DOYLE, City Attorney

By: /s/ Michael R. Groves
MICHAEL R. GROVES
Sr. Deputy City Attorney

Attorneys for Defendants,
CITY OF SAN JOSE, CHIEF ROB DAVIS,
and SGT. J. MARTIN

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1 DATED: June 15, 2010

LAW OFFICES OF DUYEN H. NGUYEN

2 By: /s/ Duyen H. Nguyen
3 DUYEN H. NGUYEN

4 Attorneys for Plaintiff,
5 PHUONG QUANG HO
6

7 I affirm that Plaintiff's counsel has consented to the electronic filing of this document
8 on Plaintiff's behalf.
9

10 DATED: June 15, 2010

RICHARD DOYLE, City Attorney

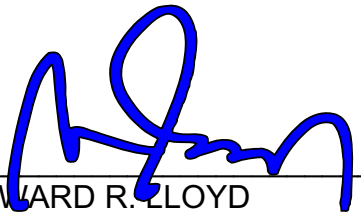
11 By: /s/ Michael R. Groves
12 MICHAEL R. GROVES
13 Sr. Deputy City Attorney

14 Attorneys for Defendants,
15 CITY OF SAN JOSE, CHIEF ROB DAVIS,
and SGT. J. MARTIN

16 **ORDER**

17 GOOD CAUSE APPEARING, it is so ordered that the current dates shall be changed
18 to the requested dates.
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20 DATED: June 15, 2010

21 
22 HON. HOWARD R. LLOYD
23 Magistrate Judge
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